

REMARKS

Claims 1-20 are currently pending in the application. Claims 1-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Madoff et al. (U.S. Patent No. 7,162,448, referred to herein as "Madoff"). The rejections are respectfully traversed, but Claims 1, 7, 10, 11, 17, and 20 are proposed to be amended to more clearly distinguish them from Madoff.

Applicants respectfully traverse the rejections based on Madoff because Madoff discloses and teaches a "price improvement mechanism" in which an financial instrument traders' specifies an exposure period for the trade and a fixed "price improvement" relative to the National Best Bid/Offer ("NBBO"), while Applicants' invention is a secondary auction in which a market participant initiates a market-fixed "price improvement period" ("PIP") for a secondary auction upon submitting a price improvement above a market-fixed threshold during which market participants may bid different price improvements in response to bids of other participants.

The "price improvement mechanism" disclosed and taught in Madoff is based on a fixed exposure time specified in the originating order (col. 1, lines 49-53; col. 1, line 64 to col. 2, line 5; col. 2, lines 10-12; col. 2, lines 21-24; col. 2, lines 29-32; col. 4, lines 57-65 ["[t]he life span can be variable and can be any set time period"]; col. 6, lines 14-20 ["chosen exposure time"]; col. 7, lines 56; col. 9, lines 64-66; col. 20, lines 28-30; col. 11, lines 13-22; col. 11, lines 48-53 [alternate embodiment of collecting all responses over the exposure duration]; col. 12, lines 57-59). Madoff's "price improvement" is also specified at the time of order by the offeror or at the time of response by the responder relative to the National Best Bid/Offer (col. 5, lines 58-59; col. 6, lines 56-59; col. 7, lines 52-55; col. 9, lines 13-18; Fig. 11; col. 12, lines 10-30). Madoff also teaches the advantage of "trading interest to remain anonymous as to price, size and identity" (col. 2, lines 65-66; col. 7, lines 56-57). Thus, the Madoff approach is directed to an offeror-specified time period during which respondents may or may not match the offeror's conditions, without any knowledge of the bidding for the offer.

In contrast, in Applicant's invention a secondary auction (para. 0007) is initiated by a market participant offering a price improvement over the NBBO of greater than a threshold established by the exchange, which auction is conducted during a price improvement period ("PIP") of a consistently short period of about three seconds set by the exchange (para. 0033). During the secondary auction, although anonymity of identity is used, unlike the teaching in Madoff, prices and quantities of other market participants are visible to market participants through Book 25 in the instant invention (paras. 0011, 0024) and improvement orders may be made (para. 0034). Thus, unlike Madoff, the instant invention provides a fast secondary auction.

Referring to the Examiner's Detailed Action paragraph 5, as to Claims 1 and 7, Applicants respectfully traverse the Examiner's equation at paragraphs 5(b)-(d) of Applicants' electronic order book 25 to the server memory of Madoff, the updating of that book with parsed information, and the transmission of that information to market participants, as Madoff teaches away from an auction with the bids visible to participants (col. 2, lines 65-66; col. 7, lines 56-57). Although it should be apparent from the nature of the auction, Applicants respectfully offer amendments to specify that price and quantity information for the secondary auction is made visible to market participants as supported in the specification (para. 0024). Applicants also respectfully traverse the Examiner's equation at paragraph 5(e) of Applicants' initiation of a secondary auction during a price improvement period set by the exchange to Madoff's specification of an exposure period for an offer; Madoff does not disclose a price improvement threshold or a "preset price improvement period." In this context, Applicants respectfully traverse the mapping of paragraph 5(f) on the transaction execution, including the specific allocations.

Because Madoff thus does not anticipate independent Claims 1 and 7, Claims 2-6 and 8-9, respectively dependent on them, are not anticipated. Applicants additionally respectfully traverse paragraphs 7 and 8 of the Detailed Action regarding Claims 3 and 4, as Madoff does not disclose a "preset price improvement" that is a threshold, but only a price improvement selected by the offeror. Applicants additionally respectfully traverse paragraphs 9 and 10 of the Detailed Action, regarding Claims 5 and 8 and Claims 6 and 9, respectively, as Madoff does not disclose

any role of market-makers, or therefore, non-market-maker broker-dealers, or any allocation based upon their roles.

Applicants respectfully traverse paragraph 11 of the Detailed Action as to Claim 10, as Madoff does not disclose an auction relative to a price improvement. An amendment is offered to emphasize that such an auction requires the visibility of price and quantity of bids during the auction period (supported by para. 0024), away from which Madoff teaches (col. 2, lines 65-66; col. 7, lines 56-57).

Referring to the Examiner's Detailed Action paragraph 12, as to Claims 11 and 17, Applicants respectfully traverse the Examiner's finding at paragraph 7(b) that Madoff discloses or teaches a preset price improvement threshold, rather than the improvement selected by the offeror. Although it should be apparent from the nature of the auction, Applicants respectfully offer amendments to specify that price and quantity information for the secondary auction is made visible to market participants as supported in the specification (para. 0024). Applicants also respectfully traverse the Examiner's equation at paragraphs 7(c)-(d) of Applicants' initiation of a secondary auction during a price improvement period set by the exchange to Madoff's specification of an exposure period for an offer; Madoff does not disclose a "preset price improvement period." In this context, Applicants respectfully traverse the mapping of paragraph 7(e) on the transaction execution, including the specific allocations.

Because Madoff thus does not anticipate independent Claims 11 and 17, Claims 12-16 and 18-19, respectively dependent on them, are not anticipated. Applicants additionally respectfully traverse paragraphs 14 and 15 of the Detailed Action regarding Claims 13 and 14, as Madoff does not disclose a "preset price improvement" that is a threshold, but only a price improvement selected by the offeror. Applicants additionally respectfully traverse paragraphs 16 and 17 of the Detailed Action, regarding Claims 15 and 18 and Claims 16 and 19, respectively, as Madoff does not disclose any role of market-makers, or therefore, non-market-maker broker-dealers, or any allocation based upon their roles.

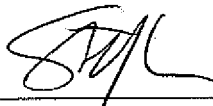
Applicants respectfully traverse paragraph 18 of the Detailed Action as to Claim 20, as Madoff does not disclose a market participant's commencement of a preset-time period auction relative to a price improvement by a bid or offer greater than a pre-set threshold, rather than choosing an exposure period for trading with a possible price improvement over the NBBO. An amendment is offered to emphasize that Applicants' auction requires the visibility of price and quantity of bids during the auction period (supported by para. 0024), away from which Madoff teaches (col. 2, lines 65-66; col. 7, lines 56-57).

Applicants thus request that the Examiner withdraw the rejections and grant favorable consideration and allowance.

Upon review of this paper, the Examiner is invited to contact the undersigned at 617-345-3263 with any questions or comments.

Respectfully submitted,
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Applicants

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